

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUSTIN GUY,

Plaintiff,

Case No. 20-12734

Hon. Mark A. Goldsmith

vs.

ABSOPURE WATER COMPANY,

Defendant.

/

ORDER
GRANTING DEFENDANT LEAVE TO FILE AMENDED AFFIRMATIVE DEFENSES

The Court has reviewed the pending motion to strike affirmative defenses (Dkt. 15). In the motion, Plaintiff Justin Guy argues, among other things, that Defendant Absopure Water Company's answer to Guy's complaint contains multiple affirmative defenses that are "boilerplate." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007), prohibits boilerplate pleadings, as it requires that a complaint state "enough facts to state a claim to relief that is plausible on its face." Although Twombly concerned claims for relief, its plausibility standard "applies also in the context of a defendant asserting an affirmative defense." Safeco Ins. Co. of Am. v. O'Hara Corp., No. 08-CV-10545, 2008 WL 2558015, at *1 (E.D. Mich. June 25, 2008). Thus, "[l]ike a claim for relief, an affirmative defense does not require 'detailed factual allegations,' but it must set forth more than mere 'labels and conclusions.'" Cohan v. Genji Novi, Inc., No. 19-10786, 2019 WL 4051747, at *2 (E.D. Mich. Aug. 28, 2019) (quoting Twombly, 550 U.S. at 570). Without expressing any view regarding the merits of the motion to strike, the Court affords Absopure an opportunity to cure the purported defects in its affirmative defenses by granting Absopure leave to file amended affirmative defenses.

Any amended affirmative defenses must be filed on or before April 16, 2021, and must set forth sufficient factual allegations that, if true, would “plausibly” defeat or mitigate Guy’s claims. See Ashcroft v. Iqbal, 556 U.S. 662, 680 (2009). If Absopure timely files amended affirmative defenses, the Court will deny without prejudice the currently pending motion to strike. If Absopure does not timely file amended affirmative defenses, Absopure shall file a response to the motion on or before April 16, 2021, and the Court will decide the motion.

SO ORDERED.

Dated: April 5, 2021
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge